

# SENATE . . . . . No. 32

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## The Commonwealth of Massachusetts

PRESENTED BY:

**Cynthia Stone Creem**

*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act relative to safety in day care facilities.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Creem, Cynthia (SEN)	First Middlesex and Norfolk
Karen E. Spilka	Second Middlesex and Norfolk
Kay Khan	11th Middlesex

[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE SENATE, NO. S00070 OF 2007-2008.]

## **The Commonwealth of Massachusetts**

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**In the Year Two Thousand and Nine**

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### **AN ACT RELATIVE TO SAFETY IN DAY CARE FACILITIES.**

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1           SECTION 1. Section 2 of Chapter 28A of the General Laws, as appearing in the 2006  
2   Official Edition, is hereby amended by adding at the end thereof:-  
3   “Unsafe”, a product is unsafe if it meets one or more of the following criteria:  
4   (1) The children’s product does not conform to all federal laws and regulations setting forth  
5   standards for the children’s product.  
6   (2) The children’s product has been recalled for any reason by a federal agency, the product’s  
7   manufacturer, distributor, or importer; the recall has not been rescinded; and the children’s  
8   product has been listed by the U.S. Consumer Product Safety Commission created by the  
9   consumer product safety act, Public Law 92-573, 86 Stat. 1207 (“CPSC”) as a recalled product.  
10   (3) A federal agency has issued a warning that a specific children's product's intended use  
11   constitutes a safety hazard and the warning has not been rescinded.  
12   (4) For the purposes of this act, a crib is unsafe if it does not conform to the standards endorsed  
13   or established by the CPSC.

(5) An unsafe children's product, as determined under subsection (1), (2), (3) or (4), may be retrofitted if the retrofit has been approved by the federal agency issuing the recall or warning or the federal agency responsible for approving the retrofit if it is different from the federal agency issuing the recall or warning.

SECTION 2. Section 9 of Chapter 28A of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by adding at the end thereof:-

“Unsafe”, a product is unsafe if it meets one or more of the following criteria:

(1) The children’s product does not conform to all federal laws and regulations setting forth standards for the children’s product.

(2) The children’s product has been recalled for any reason by a federal agency, the product’s manufacturer, distributor, or importer; the recall has not been rescinded; and the children’s product has been listed by the U.S. Consumer Product Safety Commission created by the consumer product safety act, Public Law 92-573, 86 Stat. 1207 (“CPSC”) as a recalled product.

(3) A federal agency has issued a warning that a specific children's product's intended use constitutes a safety hazard and the warning has not been rescinded.

(4) For the purposes of this act, a crib is unsafe if it does not conform to the standards endorsed or established by the CPSC.

(5) An unsafe children's product, as determined under subsection (1), (2), (3) or (4), may be retrofitted if the retrofit has been approved by the federal agency issuing the recall or warning or the federal agency responsible for approving the retrofit if it is different from the federal agency issuing the recall or warning.

SECTION 3. Section 10 of Chapter 28A of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by adding in line 53 after the words, “civil fines and other sanctions.” the following:-

Such regulations, as they relate to standards and requirements for licensure and approval of school age child care programs, day care centers, family day care homes or large family day care homes which are not part of a family day care system, family foster care which is not supervised and approved by a placement agency, placement agencies, group care facilities, and temporary shelter facilities shall require that all facilities regularly certify that no unsafe products are being used or kept on the premises, with the exception that antique or collectible children’s products may be kept if they are not used by, or accessible to, a child in the child care facility.

SECTION 4. Section 4(l) of Chapter 28A of the General Laws as appearing in the 2006 Official Edition is hereby amended by removing the word, “and” from the end of line 47.

SECTION 5. Section 4(m) of Chapter 28A of the General Laws as appearing in the 2006 Official Edition is hereby amended by removing the period at the end of line 60 and replacing it with the following:-

; and

SECTION 6. Section 4 of Chapter 28A of the General Laws as appearing in the 2006 Official Edition is hereby amended by adding at the end thereof the following: -

(n) posting and maintaining a web site that includes an updated list of unsafe child products.